

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION**

**TIM LEATHERBY**

**PLAINTIFF**

**v.**

**No. 3:23-cv-00372-MPM-RP**

**YALOBUSHA COUNTY, et al.**

**DEFENDANTS**

**ORDER**

On October 18, 2023, the Magistrate Judge entered a Report and Recommendation [6] (“R&R”) recommending dismissal of this case with prejudice for lack of subject-matter jurisdiction and for failure to state a claim. Additionally, because Mr. Leatherby previously filed two similarly frivolous cases in this court, Judge Percy recommended the imposition of sanctions in the amount of \$1,000.00 to deter further frivolous filings. Finally, the order cautioned the plaintiff that failing to file written objections within 14 days of the R&R would bar him from (1) entitlement to *de novo* review by a district judge; and (2) and appellate review, except on grounds of plain error. Mr. Leatherby raised no such objections.

Though district judges are not required to review an issue *de novo* if no objections are filed, the law “does not preclude further review by the district judge[] *sua sponte*.” *Thomas v. Arn*, 474 U.S. 140, 154 (1985). More to the point, a respected scholar has said, “[T]here should be no question about whether the district judge retains full authority to alter or reject the magistrate judge’s recommendations despite the absence of an objection.” 12 Charles Alan Wright & Arthur R. Miller, Federal Practice & Procedure § 3070.1 (2d ed. 1997). Thus, even though the plaintiff declined to file any objections, this court still considers the record in its entirety.

In light of the forgoing, this court agrees with the Magistrate Judge that this case must be dismissed as frivolous and that sanctions are warranted. As to the amount of sanctions, however, this court finds that the recommended figure is too steep under the premises. Accordingly, the

sanctions imposed are reduced to \$250.00. Otherwise, the R&R is approved and adopted as the opinion of this court.

It is, therefore, **ORDERED** that:

1. The Report and Recommendation of the United States Magistrate Judge [6] dated is **OVERRULED** as to the amount of sanctions. Accordingly, the court imposes a fine in the amount of \$250.00 payable to the Clerk of Court.

2. The Report and Recommendation of the Magistrate Judge is otherwise **APPROVED** and **ADOPTED** as the findings of fact and conclusions of law of the court.

3. The plaintiff's motion to proceed *in forma pauperis* [2] is **DENIED**.

4. The case is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915(e)(2).

Accordingly, a separate order shall be issued pursuant to Fed. R. Civ. P. 58.

**SO ORDERED** this the 28<sup>th</sup> day of November, 2023.

/s/ Michael P. Mills  
**UNITED STATES DISTRICT JUDGE**  
**NORTHERN DISTRICT OF MISSISSIPPI**